**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**
**INCOME TAX APPLICATION NO.123 OF 2000**

The Commisioner of Income Tax ..Applicant
Vs.
M/s.Chadda & Chadda ..Respondent

Mr.A.S.Rao for the Applicant.
Mr.S.J.Mehta for the Respondent.

**CORAM :- DR.S.RADHAKRISHNAN &**
**V.C.DAGA, JJ.**
**DATE : 20TH MARCH, 2007**

**P.C.**

1. Heard the learned Counsel for the parties. In the above, the following substantial question of law is sought to be raised:

> "Whether on the facts and in the circumstances of the case the Tribunal was right in law in upholding the Order of the C.I.T.(A) cancelling the penalty levied under Section 271(1)(c) of the Income Tax Act without appreciating the fact that revised return filed on 16th January,1989 was in consequence of survey action taken by the Department under Section 133A of the Income Tax Act?"

2. The learned Counsel for the Applicant fairly states that in view of the judgment of the Hon'ble Supreme Court in the case of **Virtual Soft Systems Ltd. Vs. Commissioner of Income Tax (2007) 289 ITR 83 (SC)**, the issue is squarely covered in favour of the Assessee and against the Revenue. In view of the aforesaid submissions of the learned Counsel for the Applicant, we are not inclined to entertain the above Application. Hence, the Application stands dismissed.

**(V.C.DAGA,J.)** **(DR.S.RADHAKRISHNAN,J.)**